IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.21364 of 2003

Between:

1 Ajmeera Rana, s/o Somla, aged 52 years,

2 Thumma Anandam, s/o Venkatanarasaiah, aged 60 years,
3 Thumma Chakrapani, s/o Venkateshwaraiah, aged 65 years,
4 Thumma Vidyasagar, s/o Venkateshu, aged 40 years,
5 Ravula Mallaiah, s/o Yaakaiah, aged 43 years,
6 Keshetti Anil, s/o Somaiah, aged 25 years,
7 Keshetti Suraiah, s/o Narasaiah, aged 55 years,
8 Keshetti Sambaiah, s/o Narasaiah, aged 60 years,
9 Keshetti Sambaiah, s/o Rajaiah, aged 58 years,
10 Keshetti Suraiah, s/o Rajaiah, aged 54 years,

11 Keshetti Sadanandam, s/o Rajaiah, aged 48 years,
12 Kothakonda Uppalaiah, s/o Chinna Kattaiah, aged 75 years,
13 Bakkala Veeraiah, s/o Sailu, aged aged 80 years,
14 Bakkala Pedda Mallaiah, s/o Sailu, aged 68 years,
15 Bakkala Yellaiah, s/o Sailu, aged 64 years,
16 Muluguri Chandraiah, s/o Muthilingam, aged 90 years,
17 Muluguri Ravi, s/o Muthulingam, aged 32 years,
18 Muluguri Chandramouli, s/o Chandraiah, aged 42 years,
19 Muluguri Ramaiah, s/o Muthulingam, aged 85 years,
20 Muluguri Ravi, s/o Ramaiah, aged 28 years,
21 Muluguri Papaiah, s/o Muthulingam, aged 80 years,
22 Muluguri Sadanandam, s/o Papaiah, aged 38 years,
23 Muluguri Ailayya, s/o Papaiah, aged 32 years,
24 Muluguri Ravi, s/o Papaiah, aged 31 years,
25 Muluguri Madhu, S/o Papaiah, aged 28 years,
26 Muluguri Ailayya, s/o Ramaiah, aged 55 years,
27 Muluguri Sudershan, s/o Ramaiah, aged 42 years,
28 Muluguri Mondaiah, s/o Cahndraiah, aged 58 years,
29 Muluguri Sanjeeva, s/o Chandraiah, aged 48 years,
30 Muluguri Chandramouli, s/o Chandraiah, aged 42 years,
31 Allam Sammaiah, s/o Suruvaiah, aged 70 years,
32 Deshni Sudharshan, s/o Rajaiah, aged 35 years,
33 Pendyala Saraiah, s/o Yellaiah, aged 50 years,

34 Molusuri Mondaiah, s/o Chandraiah, aged 58 years,
All are Agriculturists and residents of Madannapet Village, Narsampet Mandal, Warangal District.

..... PETITIONERS

AND

1 The Mandal Revenue Officer,
Narasampet Mandal, Warangal District.
2 The Revenue Divisional Officer,
Narasampet Mandal, Warangal District.
3 The District Collector,
Warangal, Warangal District.
4 The Commissioner of Land Revenue, Hyderabad.
5 The Executive Engineer, Irrigation Department,
Mahaboobabad, Warangal District.
6 The Deputy Executive Engineer, Irrigation Department,
Narasampet, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in nature of writ of mandamus declaring the action of the respondents in seeking to dispossess the petitioners from the lands covered by Survey No.34 to an extent of Ac.68.20 situated at Madannapet Village, Narasampet Mandal, Warangal District, without disposing the proposals initiated in the year 1989 for reclassification of the survey No.34 situated at Madannapet village from shikam land to Government land for the purpose of assigning the said land in favour of the petitioners as illegal arbitrary and consequently direct the respondents to dispose of the proposals already submitted pursuant to the representations pending consideration in the office of the 3rd respondent for reclassification of the shikam land to Government land at the earliest.

Counsel for the Petitioners: MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR ASSIGNMENT

The Court made the following:

ORDER:

The thirty-four writ petitioners, who are residents of Madannapet Village, Narsampet Mandal, Warangal District, appear to have encroached upon sikkam land (tank bed land) in S.No.34 admeasuring Acs.68.20 and have been cultivating the land. They also made representations starting from 1989 seeking assignment of the land and according to them the lower rung officials inspected the land and recommended for assignment, but the Government has not yet taken a decision. It is their case that respondents 1 to 3 started visiting the place from 25.9.2003 with a view to evict the petitioners. Therefore, they filed the Writ Petition seeking a Writ of Mandamus declaring the action of the respondents in trying to evict them without disposing of the proposals for reclassification of the land submitted by the revenue officials as illegal and arbitrary.

The respondents filed a counter affidavit stating that the land in S.No.34 is sikkam land and therefore the same cannot be assigned as per Memo No.30307/assn.I (I)2000, dt.23.5.2000 and another Memo No.65961/Assn.I(I) 97-11, dt.8.2.1999 wherein the Government directed all the District Collectors to protect water bodies. It is further stated that when the Government started fencing sikkam land and directed the petitioners to vacate the land, they filed the present Writ Petition.

Learned counsel for the petitioners does not dispute that the land which is in occupation of the petitioners is sikkam land and that as per existing law, same cannot be assigned to anybody. However, he submits that as the proposals for reclassification are pending before competent authority unless a decision is taken thereon, petitioners cannot be evicted. Learned Assistant Government Pleader refutes the submission and contends that sikkam land cannot be assigned and therefore there is no necessity for considering the proposal for reclassification.

In the admitted facts position and having regard to law laid down by the Supreme Court in **Hinch Lal Tiwari v. Kamala Devi** as well as decision of this Court in **The Water Users' Association, Thimmayyagaripalli v. Government of A.P.** (W.P.No.20323 of 2000 dated 6.2.2002) tank bed lands or sikkam lands cannot be assigned to any person and water body has to be protected as such. Merely because a part of water body as above became defunct, it cannot be a ground for reclassifying the same as assignable waste land. Therefore, this Court find no right

vesting in the petitioners which requires enforcement under Article 226 of the Constitution of India. But, the fact that the petitioners are poor persons depending on agriculture cannot be denied. Therefore, if they are eligible for being assigned agricultural land, they may approach the first respondent with fresh application for assignment of suitable land in which event, first respondent shall consider the case of the petitioners for assignment of other land. Further, if the petitioners are in possession of the land, they have to be evicted only after issuing notice to them.

The Writ Petition with the above observations and directions is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

1.11.2004

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To

1 The Mandal Revenue Officer, Narsampet Mandal,

Warangal District.

2 The Revenue Divisional Officer,
Narasampet Mandal, Warangal District.
3 The District Collector,
Warangal, Warangal District.
4 The Commissioner of Land Revenue, Hyderabad.
5 The Executive Engineer, Irrigation Department,
Mahaboobabad, Warangal District.
6 The Deputy Executive Engineer, Irrigation Department,
Narasampet, Warangal District.

7 Two CCs to the Government Pleader for Assignment,

High Court Buildings, Hyderabad (O.U.T)

8 Two CD Copies.